IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13907 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PARTH CO-OP.H.SOCI.LTD. THR' ITS CHAIRMAN - Petitioner(s)

Versus

TORRENT POWER (AEC) LTD. & 1 - Respondent(s)

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Appearance :

MR JV MEHTA for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 06/10/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. The record shows that both the respondents are duly served with the notice for final disposal of the petition, but, none of them has appeared through its lawyer or its constituted agent, nor any of them has filed affidavit-in-reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in this petition upon the respondents. Having regard to the facts of the case, the petition is taken up for final hearing to-day.

2. By filing this petition under Article 226 of the Constitution, Mr.Atmaram M. Patel, who is the Chairman of Parth Cooperative Housing Society Ltd., situated near Bhagyoday Bungalows, Chandlodia-Ghatlodia, Ahmedabad, has prayed to issue an appropriate writ or order directing the respondent no.1, i.e. Torrent Power (AEC) Ltd. to grant electricity connections to ten residential units constructed by him. The petitioner has further prayed to direct the respondent no.2, i.e. Ahmedabad Urban Development Authority to grant Building Use Permission in respect of residential premises

constructed by him.

3. The record of the case shows that the Parth Cooperative Housing Society Ltd. is a registered society of which Mr.Atmaram M. Patel is Chairman. The Revenue Survey Nos. 167/4 and 167/6 which now forms part of Final Plot No.70 of Town Planning Scheme No.18 (Ghatlodia- Chandlodia- Sola) of Village Chandlodia, Taluka- City, District Ahmedabad, belongs to Parth Cooperative Housing Society Limited.

4. The Chairman/Secretary of the society were desirous of developing the land. Therefore, they made an application before the Ahmedabad Urban Development Authority to grant development permission to them. The record shows that Ahmedabad Urban Development Authority granted development permission on June 08, 2005, which is quite evident from the contents of the document produced at Annexure-'G' to the petition. After obtaining the development permission, the petitioner has constructed ten residential units. After the construction of residential units was over, it was the duty of the petitioner to obtain Building Use Permission and thereafter, to apply to the respondent no.1 for supply of electricity connections to the units constructed by him. However, without obtaining

Building Use Permission, the petitioner applied to the respondent no.1 to grant eleven electricity connections to the units constructed by him. The said request has been turned down by the respondent no.1, which is quite evident from the contents of letter dated March 21, 2006, addressed by the General Manager of the respondent no.1 to the petitioner. A copy of which is produced at Annexure:-'A' to the petition. By the said letter, the petitioner has been called upon to produce either Building Use Permission or conditional order of the High Court to enable the respondent no.1 to supply electricity connections to the units constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

5. The petition was placed for admission hearing before the Court on August 22, 2006 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued. As observed earlier, both the respondents are duly served, but, none of them has remained present before the Court nor contested the petition.

6. This Court has heard Mr.J.V.Mehta, learned counsel for the petitioner and considered the documents and

having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

1) The petitioner will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

3) The petitioner shall apply to the respondent No.1, i.e Torrent Power AEC Limited, for providing electricity connection to 60 residential flats/apartments constructed by it with a proper application/form/format and by paying charges within a week.

4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to low-rise Commercial Complex constructed by the petitioner within one month on usual terms and conditions.

5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to low-rise Commercial Complex constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the low-rise Commercial Complex constructed by the petitioner within a period of fifteen days.

6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to low-rise Commercial Complex constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to low-rise Commercial Complex constructed by the petitioner.

7) The petitioner shall file an Undertaking before

the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to low-rise Commercial Complex constructed by it. This Undertaking shall be filed along with the application/form/ format meant for the purpose.

Rule is made absolute subject to the above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.PANCHAL, J.)

(SMT.ABHILASHA KUMARI, J.)

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